

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

BRANDON RAY DRIVER,

Petitioner,

v.

2:05-CV-0062

RON L. WARD, et al.,

Respondents.

**REPORT AND RECOMMENDATION TO GRANT
PETITIONER'S MOTION TO DISMISS and
TO DISMISS PETITION FOR A WRIT OF HABEAS CORPUS**

Came this day for consideration the motion to dismiss filed by petitioner BRANDON RAY DRIVER. By his motion, petitioner seeks to dismiss the Petition for a Writ of Habeas Corpus filed in this cause number. Petitioner contends he filed his habeas petition "in an attempt to resolve a detainer/hold that had been lodged against him in the State of Texas, for a sentence that had expired." Petitioner advises that during the pendency of this case, "the detainer/hold in the State of Texas has been recalled and dismissed, thus there is no longer need for this matter to be resolved in this Court." Petitioner requests this matter be dismissed without prejudice.

Based on petitioner's representations, it appears there is no continuing case or controversy with regard to petitioner in this proceeding. Accordingly, petitioner's motion to dismiss should be GRANTED, and petitioner's habeas application should be DISMISSED.

RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States

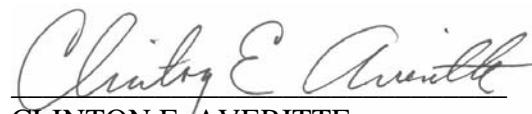
District Judge that petitioner's Motion to Dismiss be GRANTED, and the petition for a writ of habeas corpus filed by petitioner BRANDON RAY DRIVER be DISMISSED.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a file-marked copy of this Report and Recommendation to petitioner by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 24th day of May 2005.



CLINTON E. AVERITTE
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the file mark on the first page of this recommendation. Service is complete upon mailing, Fed. R. Civ. P. 5(b), and the parties are allowed a 3-day service by mail extension, Fed. R. Civ. P. 6(e). Therefore, any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled "Objections to the Report and Recommendation." Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).